

FEB 12 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Robin J. Guthrie

Serial No.: 10/816,403

Filed: April 1, 2004

Title: Fuel Cell Reactant Flow Fields That
Maximize Planform Utilization

Docket No.: C-2480

Art Unit: 1745

Examiner: Keith D. Walker

I hereby certify that this correspondence is being facsimile
transmitted to the United States Patent and Trademark
Office (Fax No. 571-273-8300) on
February 12, 2009.

Barbara Cecere

PETITION TO THE DIRECTOR UNDER 37 CFR 1.181(a) REGARDING ABANDONMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests that the above-identified application be revived on the ground that the Examiner should not have held it abandoned in the first place, because an SPE had promised withdrawal of the final action and issuance of a new, non-final action, by phone, which was confirmed by applicant's e-mail the day after the phone call, the e-mail having been read by the SPE the same day.

The e-mail (Exhibit 1 herewith) was sent on 7/23/08 to SPE Ryan requesting a quality review of the subject final rejection. Due to his illness, Director Stone's office said the matter should be referred to SPE Tsang-Foster. The e-mail requesting quality review was then forwarded to SPE Tsang-Foster, on August 18. The response to the request for quality review was a phone call from SPE Tsang-Foster on August 20 in which she simply stated that the final rejection would be withdrawn and that a new non-final office action would be issued. The next day, August 21, 2008, the undersigned sent an e-mail (Exhibit 2 herewith) to SPE Tsang-Foster confirming what SPE Tsang-Foster had said in the phone call of August 20, 2008. Ten minutes after being sent, SPE Tsang-Foster read the e-mail (Exhibit 3 herewith). SPE Tsang-Foster never contradicted the confirmation in the undersigned's August 21 e-mail in any fashion whatsoever. The subject e-mails are available in the computer of the patent specialist who works with the undersigned, and they are listed in said computer, at the appropriate dates, as indicated in the attached Declaration of the patent specialist.

By sidestepping the requested review and offering instead a new office action, the status of the case shifted from (a) response due from applicant, to (b) action due from the Office.

Respectfully submitted,



M. P. Williams

Attorney of Record

Voice: 860-649-0305

Fax: 860-649-1385

E-mail: mw@melpat.com

210 Main Street
Manchester, CT 06042

Date: February 12, 2009

EXHIBIT 1

Mel Williams

From: "Mel Williams" <MW@melpat.com>
To: "Tsang-Foster, Susy" <Susy.Tsang-Foster@USPTO.GOV>
Sent: Monday, August 18, 2008 3:21 PM
Subject: Fw: Quality Control

— Original Message —

From: Mel Williams
To: Ryan, Patrick
Sent: Wednesday, July 23, 2008 3:08 PM
Subject: Quality Control

Please review the Office Action of Keith Walker in SN 40816403, mailed 7/16/08, regarding the following points.

1. Applicant formally requested by faxed paper a supervised interview before the next Office Action. Messrs. Ryan, Ruthkosky and Walker received notice of that request by e-mail. No notice of the most recent action was given; no interview was granted.
2. No amendments were made in the last two responses but the current rejections were made final even though some are based on a newly cited reference.
3. Claim 6 was cancelled 9/21/07. It was rejected 3/6/08 and currently (7/16/08).
4. Examiner says Declarations of Guthrie and Lake are not persuasive because of no supporting evidence for assertions; in fact, the Declarations identify facts in the Fuji reference. The Guthrie Declaration exposes the actual facts, step by step, by means of cited quotes from the Fuji reference.
5. The assertions of the Examiner in the two first full paragraphs of page 8 are not related in detail to the reference, and are patently incorrect.
6. Certainly, the rejection cannot be final and must be withdrawn.
7. Applicant still requests supervisory review and a supervised interview prior to any further action except allowance.

Cordially,

Mel Williams

EXHIBIT 2

Mel Williams

From: "Mel Williams" <MW@melpat.com>
To: "Tsang-Foster, Susy" <Susy.Tsang-Foster@USPTO.GOV>
Sent: Thursday, August 21, 2008 4:17 PM
Subject: SN 10/818,403

Dear Ms. Tsang-Foster:

This is to confirm that Mr. Walker will withdraw the current final action and issue a new non-final action per your phone call on 8/20/08.

Cordially,

Mel Williams

EXHIBIT 3

Mei Williams

From: "Tsang-Foster, Susy" <Susy.Tsang-Foster@USPTO.GOV>
To: "Mei Williams" <MW@melpat.com>
Sent: Thursday, August 21, 2008 3:27 PM
Attach: ATT00014.bd
Subject: Read: SN 10/816,403

Your message

To: Tsang-Foster, Susy
Subject: SN 10/816,403
Sent: Thu, 21 Aug 2008 16:17:56 -0400

was read on Thu, 21 Aug 2008 16:27:30 -0400

RECEIVED
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Examiner: Keith D. Walker

Title: Fuel Cell Reactant Flow Fields That
Maximize Planform UtilizationDECLARATIONCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Barbara D. Cecere declare that:

1. I reside at 217 N. Elm Street, Manchester, CT 06042.
2. I am a patent specialist, having been involved in all phases of patent application filing and prosecution for over 28 years.
3. I am currently employed as a patent specialist by M. P. Williams at 210 Main Street, Manchester, CT 06042.
4. I am familiar with the application file of Serial No. 10/816,403, having prepared every document in it that was not prepared by the Patent Office including the e-mail of 7/23/08 requesting supervisory review (Exhibit 1 herewith).
5. I created and sent the e-mail confirming withdrawal of the final action on behalf of M. P. Williams on August 21, 2008.
6. My computer received the response indicating that the e-mail was read on the same day (Exhibit 3 herewith).
7. Both the August 21 e-mail of M. P. Williams and the reply thereto are currently available in my computer and are listed in the appropriate lists as of the appropriate dates.

All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with

the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Barbara D. Cecere
Barbara D. Cecere

2/12/09
Date